

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAVIER NUNEZ,

Plaintiff,

-against-

COMMISSIONER OF SOCIAL SECURITY;
NICOLE FRASER; OLIVIA GIEGERICH;
MARK SIMON; PACHEO,

Defendants.

1:24-CV-7641 (LTS)

ORDER OF DISMISSAL
UNDER 28 U.S.C. § 1651

LAURA TAYLOR SWAIN, Chief United States District Judge:

In an order dated October 31, 2023, the Court barred Plaintiff from filing future civil actions in this court *in forma pauperis* (“IFP”) “arising from [Plaintiff’s] eviction and the other, related events” without first obtaining the court’s leave to file. *Nunez v. Silber*, ECF 1:23-CV-0625, 20 (S.D.N.Y. Oct. 31, 2023), *appeal dismissed as frivolous*, No. 23-7763 (2d Cir. Mar. 20, 2024). Plaintiff, in his amended complaint for this action, which is the operative pleading, names the Commissioner of Social Security as a defendant; the Commissioner was not named as a defendant in his previous litigation that was the basis for the abovementioned filing injunction. *See Nunez*, ECF 1:23-CV-0625, 17 (S.D.N.Y. Oct. 24, 2023) (order recounting Plaintiff’s litigation history and directing Plaintiff to show cause why the abovementioned filing injunction should not be imposed by the Court). The remaining named defendants were, however, named as defendants in the Plaintiff’s previous litigation that was the basis for the abovementioned filing injunction, *see id.*, and the claims in the amended complaint for this action arise from Plaintiff’s eviction and related events, *see* ECF 7, at 4-5.

Plaintiff seeks IFP status, *see* ECF 10, and he has not sought the court’s leave to file this action. Accordingly, the Court dismisses this action without prejudice because of Plaintiff’s failure to comply with the Court’s October 31, 2023 order in *Nunez*, ECF 1:23-CV-0625, 20.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith and, therefore, IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Court directs the Clerk of Court to enter a judgment dismissing this action for the reasons set forth in this order.

The Court also directs the Clerk of Court to make all of the submissions in this action, with the exception of the original complaint (ECF 1), publicly available on the electronic docket of this action.

All pending requests are denied.

SO ORDERED.

Dated: January 10, 2025
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge